

California Regional Water Quality Control Board
Santa Ana Region

March 12, 2004

ITEM NO. 17

SUBJECT: Appeal for an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Marinell, Rick and Penny Cochran, 21697 High Street, Perris, APN 318-270-051

DISCUSSION:

On February 5, 2004, the Cochrans submitted a letter requesting an exemption from the Board's minimum lot size requirements for the use of a septic tank-subsurface disposal system on a 0.75-acre lot at 21697 High Street in Perris. The Cochrans wish to install a second mobile home and septic tank-subsurface disposal system on this lot.

There is currently one mobile home on the lot that is connected to an existing 750-gallon septic tank-subsurface disposal system. This area of Perris is unsewered. Rick and Penny Cochran purchased the lot/mobile home with the understanding that they would also purchase a second mobile home to be placed on the lot where they could care for Mr. Cochran's mother, Ms. Marinell Cochran, who is ill.

On October 13, 1989, the Regional Board adopted Resolution No. 89-157, which requires new developments for which on-site subsurface disposal system use is proposed to have a minimum one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems found in the groundwater of the Region. The Cochrans' proposed development is a new development as defined in Resolution No. 89-157 and is therefore subject to the minimum lot size requirements specified therein. With a density of 0.375 acres per dwelling unit, the Cochrans' proposal does not comply with the Board's minimum lot size requirements.

The minimum lot size exemption criteria to be used by Board staff specify that replacement of existing septic tank-subsurface disposal systems to allow additional flows resulting from additions to existing dwelling units is exempt from the one half acre requirement. However, the Board's exemption criteria specifically state that such an exemption does not apply to the addition of freestanding structures, such as a second mobile home on the Cochran's property. In establishing the exemption criteria, the Board made this distinction because of the potential that the addition of freestanding structures could result, either immediately or in the future, in substantially greater wastewater flows than would be expected as the result of additions to an existing dwelling.

In light of these circumstances, Board staff denied the Cochrans' request for an exemption from the minimum lot size requirements.

The Cochrans note that the additional flows that would occur as a result of this project would be no greater than the flows that would be allowed if Ms. Cochran were to add on to the existing house, which would be exempt from the minimum lot size criteria. On this basis, the Cochrans are appealing to the Regional Board for reversal of staff's denial of an exemption from the minimum lot size requirements. While it is true that there would be no difference in wastewater flows on an immediate basis, i.e., while Mr. & Mrs. Cochran own the property and their mother resides with them, there can be no guarantee that wastewater flows would not increase considerably in the future. As stated above, it was on this basis that the Board determined not to exempt the addition of freestanding structures from the minimum lot size requirements. However, this is an exceptional case in that the additional structure is also a mobile home. The Cochrans have offered to remove the second mobile home and septic system from the property once it is no longer required and have agreed to enter into an Agreement of Restriction to be recorded with the property Chain of Title that stipulates that this property may not be sold until the second mobile home has been removed.

RECOMMENDATION:

Approve the Cochrans' request for an exemption from the minimum lot size requirement specified in Resolution No. 89-157 with the following stipulations: 1) Once the mobile home is no longer required for use of the Cochran family, it shall be removed from the property and 2) Mr. and Mrs. Cochran must enter into an Agreement of Restriction, which shall become a part of the Chain of Title, that the property may not be sold until the second mobile home has been removed.

Comments were solicited from the following agencies:

State Water Resources Control Board, Office of Chief Counsel – Jorge Leon
Riverside County Environmental Health – Sam Martinez/Greg Dellenbach
Riverside County Building and Safety – Tom Ingram
Riverside County Planning – Mark Balys